

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
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Meeting: 1331st meeting (December 2018) (DH)

Item reference: Action plan (04/10/2018)

Communication from Hungary concerning the case of GAZSO GROUP v. Hungary (Application No. 48322/12)

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Réunion : 1331^e réunion (décembre 2018) (DH)

Référence du point : Plan d'action

Communication de la Hongrie concernant l'affaire GROUPE GAZSO c. Hongrie (Requête n° 48322/12)
(anglais uniquement)

GAZSÓ GROUP

GROUP ACTION PLAN

**Appl. No. 48322/12 GAZSÓ v. Hungary, judgment of 16/07/2015, final 16/10/2015
and Others**

***Update on general measures aimed at accelerating court proceedings and introducing an
effective domestic remedy***

4 October 2018

1. Introductory case summary

This group of cases concerns the excessive length of civil and criminal proceedings and the lack of an effective remedy in this respect (violations of Articles 6 § 1 and 13).

In the case of ***Barta and Drájkó v. Hungary*** (Appl. No. 35729/12, judgment of 17/12/2013), the Court identified, under Article 46, the length of criminal proceedings in Hungary to be a systemic problem and ruled that “[t]o prevent future violations of the right to a trial within a reasonable time, the respondent State should take all appropriate steps, preferably by amending the existing range of legal remedies or creating new ones, to secure genuinely effective redress for violations similar to the present one.”

In the case of ***Gazsó v. Hungary*** (Appl. No. 48322/12, judgment of 16 July 2015) the Court noted the Government’s Action Plan and welcomed the Government’s commitment to deal with this issue and encouraged them to continue these efforts. The Court ruled that Hungary must introduce without delay, and at the latest until 16 October 2016, a remedy or a combination of remedies in the national legal system in order to bring it into line with the requirements of the Convention.

2. General measures

A new Code of Civil Procedure (Act No. CXXX of 2016) entered into force on 1 January 2018. It is expected to accelerate civil proceedings by introducing a double-phase procedure before first-instance courts in which the trial (oral) phase is preceded by a preparatory (written) phase aimed at clarifying the scope of the case and fixing the claims of the parties. Contrary to the former rules of procedure which allowed parties to modify their claims up until the closing of the hearing stage, under the new rules the action cannot be modified and new claims cannot be raised after the first hearing (*perfelvételi tárgyalás*) or a relevant order of the court, unless it is justified by exceptional circumstances. Failure by the respondent to submit reaction to the plaintiff's claims properly may result in a default judgment. The parties' duty of facilitating the proceedings (*eljárástámogatási kötelezettség*) is also emphasised as a principle and representation by legal counsel will is required in all cases other than before the District Courts. The rules of evidence are also more elaborate with special emphasis on expert opinions, leaving more room for the initiative of the parties in mandating forensic experts without a need for appointment by the court. At appeal stage, the reasons for quashing first instance judgments are more limited and the reformatory power of the appeal court is strengthened. In cases where the pecuniary value of the action does not exceed HUF 5 million, the right to file a petition for review to the Kúria is also restricted.

Administrative proceedings are no longer covered by the Code of Civil proceedings. The Code of Administrative Proceedings (Act No. I of 2017) entered into force on 1 January 2018. The most important provisions which are expected to contribute to the timely conclusion of administrative proceedings are the ones relating to default judgments in cases when the administrative authorities fail to observe time-limits for their decisions.

A new Code of Criminal Proceedings (Act No. XC of 2017) entered into force on 1 July 2018. It is expected that the enhanced rights of the defence in the course of the investigation will contribute to the expediency and effectiveness of the proceedings. After an initial stage of information gathering (quasi "pre-arrest investigation"), defence has access to the case file as from the first questioning as a suspect (notice of suspicion). At the trial phase, a preparatory hearing is held to fix the scope of the case and, in order to prevent prolonging tactics, new motion for evidence can thereafter be submitted only in exceptional circumstances. There will

be more room for holding trials in absentia or hearings without the presence of the defendants. At the appeal stage, the reformatory power of the appeal court will be strengthened.

As regards the possible content of an Act introducing a compensatory remedy for the excessive length of proceedings, the Government have decided that the regulation to be introduced by 31 October 2018 should be based on the following principles:

- objective liability;
- covering all types of judicial proceedings (civil, labour, administrative and criminal);
- a two-stage procedure comprised of an out of court settlement procedure in the Ministry of Justice, and, in lack of settlement, a simplified judicial procedure;
- the rules of the proceedings should ensure swift determination of the claims and prompt payment of compensation;
- simplified rules of procedure (non-contentious written proceedings);
- appropriate compensation: objectively determined multipliers, amounts gradually increasing after each day of protraction.

The text of the draft legislation has past the stage of an inter-institutional conciliation and is soon to be debated by the administrative state secretaries before submission to the Government (ministers) for adoption as a proposal to the Parliament.

At the same time, the Government undertake to make all necessary efforts in order to find *ad hoc* solutions, such as friendly settlements or unilateral remedial offers (unilateral declarations) in line with the Convention requirements as regards the cases already pending with the Court.

3. Conclusions of the Respondent State

The Government will keep the Committee of Ministers duly informed on all further developments.



Zoltán Tallódi

Agent of the Government of Hungary

Annex No. 1

GAZSÓ GROUP Status of proceedings pending before the domestic authorities at the time of the adoption of the judgment of the Court Update to the list of cases in Doc. COM/Notes/1273/H-46-12			
Appl. No.	Case	Judgment of	Final domestic decision
25065/09	Dömötör	22/10/2013	Pending (Judgment was delivered on 27 June 2017, however it did not take effect because meanwhile the fourth defendant had died and therefore the proceedings were interrupted. Proceedings can be continued after determination of the identity of legal successors in a separate law-suit concerning the validity of a contract of inheritance.)
36999/08	Guest Zrt.	11/06/2013	28/01/2008: see §§ 9 and 12 of the judgment (The proceedings referred to in the Court's judgment as pending did not concern the applicant but criminal proceedings against a third person)
47902/08	Ilona Kovács	17/02/2015	No pending case can be identified after the decision of 09/03/2011 of the Budapest Regional Court (No information was submitted and no complaint was raised by the applicant in respect of the administrative proceedings instituted following that judicial decision.)
33795/08	Magyar Cement Kft.	28/05/2013	Pending (in the stage of taking expert evidence)
25411/10	Németh	17/02/2015	Judgment of 18/01/2018 of the Budapest Regional Court
5766/05	Schwartz and Others	03/11/2009	Pending (in the stage of taking expert evidence)
19478/03	Tardi and Others	23/10/2007	Judgment of 17/10/2017 of the Salgótarján Administrative and Labour Court